

Application No. 10/614,749
Amendment Dated October 26, 2007
Reply to Office Action of April 30, 2007

REMARKS

The Office Action dated April 30, 2007, has been carefully considered by Applicant. Reconsideration is respectfully requested in view of the foregoing claim amendments and the remarks that follow.

Election

Claims 23-53 were drawn to non-elected embodiments and are hereby cancelled.

Claim Objections

Claims 12, 13, 17 and 21 have been objected to for language informalities. The claims are amended to more particularly recite "first and second parameters" and thus overcome the objections set forth in the Office Action.

Claim Rejections

Claims 1-22 have been rejected under 35 U.S.C. §102(b) as being anticipated by Tsutsumi et al U.S. Patent No. 6,315,736. The claims are hereby amended to more particularly point out and distinctly claim the subject matter of the present invention and to render the same allowable over the applied reference. Claims 1, 3-12, and 14-22 remain pending.

Claims 1 and 12 are hereby amended to more particularly define the first and second parameter values as being related to two mutually different quantities selected from a group of quantities including waveform amplitudes, waveform periodicity, waveform morphology, and waveform variability. Clearly, this aspect is neither taught nor suggested by Tsutsumi et al '736, which only utilizes pulse period information (e.g. see Figs. 3 and 4) for determining the index in question.

Tsutsumi et al '736 does teach the use of a combination of two or more parameters for monitoring anesthetic depth of a patient. However, unlike Tsutsumi et al '736, the claimed invention utilizes waveform information, and not just pulse period or frequency.

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The examples given in Tsutsumi et al '736 utilize pulse period-relating information for determining the index in question. Tsutsumi et al '736 does not teach or suggest the use of waveform information, and not specifically e.g. pulse amplitude or the position of the dicrotic notch.

Claims 3-11 depend from claim 1 and claims 14-22 depend from claim 12. These claims are thus distinguishable over the reference for the reasons stated above, as well as for the detailed subject matter recited therein.

Applicant respectfully disagrees with the Examiner's opinion regarding "obvious design choice" and requests that if for some reason the rejection is maintained, the Examiner cite a reference in support of this opinion.

Withdrawal of the rejection is hereby respectfully requested.

Conclusion

The present application is thus believed in condition for allowance. Such action is respectfully requested.

Respectfully submitted,

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